

Notice of Allowability**Application No.**

10/583,093

Examiner

NORA M. ROONEY

Applicant(s)

NANDY ET AL.

Art Unit

1644

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/22/2009.
2. ☒ The allowed claim(s) is/are 10-12, 18 and 19.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 005/06/2010.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

DETAILED ACTION

1. Applicant's amendment filed on 12/22/2009 has been entered.
2. Claims 1-19 are pending.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
4. Authorization for this amendment was given in a telephone interview with Anthony Zelano 05/06/2010.

In the specification:

5. On page 1 of the specification, after the title and before line 1, please insert the following sentence:

--This application is the US national phase under §371 of PCT/EP04/13663, filed December 1, 2004, and claims priority to DE 103 59 352.7, filed December 16, 2003.--

In the claims:

6. In claim 10, line 3, the phrase "SEQ ID NO:1 or" has been deleted.
7. In claim 19, line 3, the phrase "SEQ ID NO:1 or" has been deleted.

8. Claims 1-9 and 13-17 have been cancelled.

9. The following is an Examiner's Statement of Reasons for Allowance:

10. It is the Examiner's position that SEQ ID NO:3 is a non-naturally occurring DNA molecule encoding the non-naturally occurring protein of SEQ ID NO:4 as evidenced by the specification on page 5, lines 5-9:

"Protein sequence (SEQ ID NO 4), composed of amino acids 1-67 of Phl p 4 (in accordance with SEQ ID NO 6), 68-490 of Lol p 4 (in accordance with SEQ ID NO 2) and 491-500 of Phl p 4 (in accordance with SEQ ID NO 6) having the properties, in particular immunological properties, of Lol p 4, encoded by the DNA sequence in accordance with SEQ ID NO 3."

11. The Examiner's Statement of Reasons for Allowance set forth *supra*, has obviated the previous rejection of record under 35 U.S.C. 101 in the Final Rejection mailed on 06/09/2009.

Accordingly, claims 10-12 and 18-19, are deemed allowable.

12. Claims 10-12 and 18-19 are allowed.

13. Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nora M. Rooney whose telephone number is (571) 272-9937. The examiner can normally be reached Monday through Friday from 8:30 am to 5:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached on (571) 272-0735. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 10, 2010

/Nora M Rooney/
Examiner, Art Unit 1644